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EXAMINER	
SHEPARD, JUSTIN E	
ART UNIT	**PAPER NUMBER**
2623	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/940,181	ALLEN ET AL.	
	Examiner	Art Unit	
	Justin E. Shepard	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *See Continuation Sheet*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claim 30 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A computer program product needs to be stored on a computer readable medium to be statutory.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 4-8, 15, 18-22, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skarbo in view of Caviedes.

Referring to claim 1, Skarbo discloses a method in an interactive system for automatically answering and recording video calls, the method comprising:

detecting a request to establish video communication between a caller and a user of the interactive system (column 3, lines 9-13 and 62-67; figure 2);

identifying the caller from information contained within the request (figure 2);

notifying the user concerning the identity of the caller (figure 2); and

in response to the user rejecting the request or not accepting the request within an established time interval (column 4, lines 40-48; column 5, lines 29-34); sending a pre-recorded video greeting to the caller (column 4, lines 40-48); and recording a video message comprising a video signal received from the caller (column 4, lines 24-27).

Skarbo does not disclose a system wherein the interactive system is an interactive television system.

In an analogous art, Caviedes teaches a system wherein the interactive system is an interactive television system (column 5, lines 38-41).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the interactive television taught by Caviedes to the system disclosed by Skarbo. The motivation would have been that Skarbo teaches the idea of displaying alternative media on the client devices, of which the users can discuss (column 3, lines 62-67).

Claims 15, 29 and 30 are rejected on the same grounds as claim 1.

Referring to claim 4, Skarbo discloses a method of claim 1, wherein the request comprises a video signal generated by a video camera associated with the caller, and wherein notifying comprises: displaying the video signal on a display device of the interactive television system (figures 2 and 11).

Claim 18 is rejected on the same grounds as claim 4.

Referring to claim 5, Skarbo does not disclose a method of claim 4, wherein displaying comprises: displaying the video signal in a Picture-in-Picture (PIP) window on the display device.

In an analogous art, Caviedes teaches a method of claim 4, wherein displaying comprises: displaying the video signal in a Picture-in-Picture (PIP) window on the display device (column 5, lines 38-41).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add PIP taught by Caviedes to the system disclosed by Skarbo. The motivation would have been that Skarbo teaches the idea of displaying alternative media on the client devices, of which the users can discuss (column 3, lines 62-67).

Claim 19 is rejected on the same grounds as claim 5.

Referring to claim 6, Skarbo discloses a method of claim 1, further comprising: while the video message is being recorded, establishing two-way video communication between the user and the caller in response to a user command (figure 3).

Claim 20 is rejected on the same grounds as claim 6.

Referring to claim 7, Skarbo discloses a method of claim 6, wherein recording of the video message continues during the two-way video communication (column 19, lines 1-8).

Claim 21 is rejected on the same grounds as claim 7.

Referring to claim 8, Skarbo discloses a method of claim 7, wherein the two-way video communication comprises incoming and outgoing video signals, the method further comprising: storing the incoming and outgoing video signals (column 19, lines 1-8).

Claim 22 is rejected on the same grounds as claim 8.

3. Claims 2, 3, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skarbo in view of Caviedes as applied to claim 1 above, and further in view of Fujimori.

Referring to claim 2, Skarbo and Caviedes do not disclose a method of claim 1, wherein identifying comprises: extracting an identifier of the caller from the request.

In an analogous art, Fujimori teaches a method of claim 1, wherein identifying comprises: extracting an identifier of the caller from the request (column 14, lines 63-65; figure 9).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the caller id extraction taught by Fujimori to the method disclosed by Skarbo and Caviedes. The motivation would have been that the caller id is being sent and displayed by the client device (Skarbo: figure 2), and Fujimori teaches a data structure already in use that would save on development costs.

Claim 16 is rejected on the same grounds as claim 2.

Referring to claim 3, Skarbo discloses a method of claim 2, wherein the identifier is selected from the group consisting of a name of the caller, a network address of the caller, a network address of an interactive television system of the caller, an image depicting the caller, and a video signal depicting the caller (figure 2)

Claim 17 is rejected on the same grounds as claim 3.

4. Claims 9-11, 14, 23-25, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skarbo in view of Caviedes as applied to claim 6 above, and further in view of Brunelle.

. Referring to claim 9, Skarbo and Caviedes do not disclose a method of claim 6, further comprising: buffering a television signal being currently displayed by the interactive television system.

In an analogous art, Brunelle teaches a method of claim 6, further comprising: buffering a television signal being currently displayed by the interactive television system (column 3, lines 10-15; column 3, line 55-column 4, line 4).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the television buffering taught by Brunelle to the method disclosed by Skarbo and Caviedes. The motivation would have been to enable the user to not miss any portion of the currently watched television program even when a phone call interrupts it.

Claim 23 is rejected on the same grounds as claim 9.

Referring to claim 10, Skarbo, Caviedes, and Brunelle do not disclose a method of claim 9, wherein buffering comprises: encoding the television broadcast; and storing the encoded television broadcast in a storage device.

The examiner takes Official Notice that it would have been notoriously well known in the art that a digital television recording device encodes the data to be recorded.

At the time of the invention it would have been obvious for one of ordinary skill in the art to add television encoding to the method disclosed by Skarbo, Caviedes and Brunelle. The motivation would have been to enable an encoder with variable bit rates to be used to enable the device to change the amount of data to be recorded on the device.

Claim 24 is rejected on the same grounds as claim 10.

Referring to claim 11, Skarbo and Caviedes do not disclose a method of claim 9, further comprising: in response to the two-way video communication being terminated, playing back the television signal being buffered from a point in time at which the two-way video communication was established.

In an analogous art, Brunelle teaches a method of claim 9, further comprising: in response to the two-way video communication being terminated, playing back the television signal being buffered from a point in time at which the two-way video communication was established (column 3, lines 10-15; column 3, line 55-column 4, line 4).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the television buffering taught by Brunelle to the method disclosed by Skarbo and Caviedes. The motivation would have been to enable the user to not miss any portion of the currently watched television program even when a phone call interrupts it.

Claims 14 and 28 are rejected on the same grounds as claims 1, 6, 7, 9, and 11.

Claim 25 is rejected on the same grounds as claim 11.

5. Claims 12 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skarbo in view of Caviedes as applied to claim 1 above, and further in view of Irvin.

Referring to claim 12, Skarbo and Caviedes do not disclose a method of claim 1, wherein the pre-recorded video greeting is caller-specific.

In an analogous art, Irvin teaches a method of claim 1, wherein the pre-recorded video greeting is caller-specific (figure 2, parts 225 and 230).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the caller specific greeting taught by Irvin to the method disclosed by Skarbo and Caviedes. The motivation would have been to enable multiple greetings for different situations depending the person calling (Skarbo: column 5, lines 29-34).

Claim 26 is rejected on the same grounds as claim 12.

6. Claims 13 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skarbo in view of Caviedes in view of Irvin.

Referring to claim 13, Skarbo discloses a method in an interactive system for automatically answering and recording video calls, the method comprising:

detecting a request to establish video communication between a caller and a user of the interactive television (column 3, lines 9-13 and 62-67; figure 2);

identifying the caller from information contained within the request (figure 2); and

automatically sending a pre-recorded video greeting to the caller (column 4, lines 40-48; column 5, lines 29-34); and automatically recording a video message comprising a video signal received from the caller (column 4, lines 24-27).

Skarbo does not disclose a system wherein the interactive system is an interactive television system.

In an analogous art, Caviedes teaches a system wherein the interactive system is an interactive television system (column 5, lines 38-41).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the interactive television taught by Caviedes to the system disclosed by Skarbo. The motivation would have been that Skarbo teaches the idea of displaying alternative media on the client devices, of which the users can discuss (column 3, lines 62-67).

Skarbo and Caviedes do not disclose a system for determining whether the caller is identified within an auto-answer list and sending a greeting in response to the caller being included within the auto-answer list.

In an analogous art, Irvin teaches a system for determining whether the caller is identified within an auto-answer list and sending a greeting in response to the caller being included within the auto-answer list (figure 2, parts 225 and 230).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the caller specific greeting taught by Irvin to the method disclosed by Skarbo and Caviedes. The motivation would have been to enable multiple greetings for different situations depending the person calling (Skarbo: column 5, lines 29-34).

Claim 27 is rejected on the same grounds as claim 13.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent Number 5,550,754 (McNelley) teaches a teleconferencing camcorder.

US Patent Number 6,385,305 (Gerzberg) teaches a videophone answering machine.

US Patent Number 6,766,527 (Tsutsui) teaches a CATV communication system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS

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